

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE WILLIAM M. YARBROUGH
FOUNDATION and
ZANFEL LABORATORIES, INC.,

Plaintiffs,

-vs-

Case No. 06-0348
Hon. AVERN COHN

RITE AID CORPORATION,
CADE LABORATORIES, LLC., and
CADEY O'LEARY,

Defendants.

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SCHEDULING ORDER

This is a patent case. The patent-in-suit is U.S. Patent No. 7,008,963 B2: Urushiol Induced Contact Dermatitis Solution. Defendants claim the patent is invalid on grounds of anticipation and obviousness and is unenforceable on the grounds of inequitable conduct.

The issues of public use and inequitable conduct are to be tried to the Court. The issues of anticipation and obviousness are to be tried to a jury. This order sets the schedule leading to each trial.

I. Bench Trial

1. Discovery is complete except for expert reports.
2. Defendants' expert's report shall be completed by February 15, 2008.
3. Plaintiffs' expert's report shall be completed by March 01, 2008.
4. Discovery depositions of the experts shall be completed by March 30, 2008.
5. The trial shall commence on April 21, 2008, at 9:00 am, in the Theodore Levin

United States Courthouse in Detroit, Michigan.

6. One (1) week prior to trial defendants shall file with the Court
 - proposed findings of fact and conclusions of law separately stated in numbered paragraphs accompanied by a three (3) ring binder of cases cited with the appropriate paragraphs highlighted.
 - a list and book of the exhibits to be offered at trial
 - a list of the witnesses to testify at trial including a brief description of each witness' testimony. If deposition testimony is to be offered the deposition transcript shall accompany the list of witnesses with the proposed testimony highlighted.

7. One (1) week prior to trial plaintiffs shall file with the Court exhibit and witness lists as above described.

8. Additionally, each party may file a trial brief.

9. At trial as each witness is called to testify the Court shall be provided with copies of the exhibits the witness intends to refer to in the witness' testimony.

II. Jury Trial

1. Discovery is complete except for expert reports. The parties are expected to agree on the filing dates of expert reports and related discovery depositions.

2. The issues of infringement and validity will be tried separately from the issues of wilfulness and damages to the same jury.

3. The trial shall commence on May 19, 2008, at 9:00 am, in the United States Courthouse in Lansing, Michigan.

4. The provisions of the Trial Requirements attached shall govern preparation for trial.

5. The final pretrial conference shall be held on May 05, 2008, at 2:00 pm.

6. The Joint Final Pretrial Order prepared in accordance with LR 16.2 (a copy of which is attached), except as modified by the scheduling order, shall be filed at the final pretrial conference.

III.

Any objections to this order shall be filed with the Court within forty-eight (48) hours.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: January 31, 2008

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, January 31, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160